

AN ACT

ENTITLED, An Act to expand the tax refund for agricultural processing facilities to include expansions to existing facilities and to revise the time period in which an application must be submitted.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

Section 1. That § 10-45B-1 be amended to read as follows:

10-45B-1. Terms used in this chapter mean:

- (1) "Construction date," the first date earth is excavated for the purpose of constructing a project;
- (2) "Department," the Department of Revenue and Regulation;
- (3) "Nameplate capacity," the number of kilowatts a power unit can produce according to the nameplate assigned to the power unit generator by the manufacturer;
- (4) "New agricultural processing facility," a new building or structure, or the expansion of an existing building or structure, the construction of which is subject to contractors' excise tax pursuant to chapter 10-46A or 10-46B. A new agricultural processing facility is any new building or structure, or the expansion of an existing building or structure, constructed for the initial or subsequent processing of any form of agricultural commodity, product, or by-product. A new agricultural processing facility does not include any building or structure constructed for raising or feeding of livestock;
- (5) "Person," any individual, firm, copartnership, joint venture, association, limited liability company, limited liability partnership, corporation, estate, trust, business trust, receiver, unit of government, political subdivision of any state, rural electric cooperative, consumers power district or any group or combination acting as a unit;
- (6) "Power generation facility," a facility with one power unit that generates electricity with

a nameplate capacity of no less than five hundred megawatts;

- (7) "Project," the construction of a new agricultural processing facility or a new business facility at a single site;
- (8) "Project cost," the amount paid in money, credits, property, or other money's worth for a project;
- (9) "Secretary," the secretary of the Department of Revenue and Regulation.

Section 2. That § 10-45B-1.2 be repealed.

Section 3. That § 10-45B-4 be amended to read as follows:

10-45B-4. The refund of taxes for a new agricultural processing facility pertains only to project costs incurred and paid after April 1, 1997, and within thirty-six months of the construction date as stated on the application required by § 10-45B-6. No refund may be made unless:

- (1) The project cost exceeds the sum of four million five hundred thousand dollars; and
- (2) The person applying for the refund obtains a permit from the secretary as set forth in § 10-45B-6.

Section 4. That § 10-45B-6 be amended to read as follows:

10-45B-6. Any person desiring to claim a refund pursuant to this chapter shall apply for a permit from the secretary prior to or within one hundred eighty days after the construction date. However, any project with a construction date between January 1, 2006, and July 1, 2006, that would otherwise qualify for a refund shall apply for a permit by August 1, 2006. The application for a permit shall be submitted on a form prescribed by the secretary. A separate application shall be made and submitted for each project. Upon approval of the application, the secretary shall issue a permit entitling the applicant to submit refund claims as provided by §§ 10-45B-7 and 10-45B-8. Such permit or refund claims are not assignable or transferable except as collateral or security pursuant to chapter 57A-9.

An Act to expand the tax refund for agricultural processing facilities to include expansions to existing facilities and to revise the time period in which an application must be submitted.

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I certify that the attached Act  
originated in the

HOUSE as Bill No. 1226

\_\_\_\_\_  
Chief Clerk  
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\_\_\_\_\_  
Speaker of the House

Attest:

\_\_\_\_\_  
Chief Clerk

\_\_\_\_\_  
President of the Senate

Attest:

\_\_\_\_\_  
Secretary of the Senate

House Bill No. 1226  
File No. \_\_\_\_\_  
Chapter No. \_\_\_\_\_

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Received at this Executive Office  
this \_\_\_\_\_ day of \_\_\_\_\_ ,

20\_\_\_\_ at \_\_\_\_\_ M.

By \_\_\_\_\_  
for the Governor  
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The attached Act is hereby  
approved this \_\_\_\_\_ day of  
\_\_\_\_\_, A.D., 20\_\_\_\_

\_\_\_\_\_  
Governor  
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STATE OF SOUTH DAKOTA,  
ss.

Office of the Secretary of State

Filed \_\_\_\_\_, 20\_\_\_\_  
at \_\_\_\_\_ o'clock \_\_ M.

\_\_\_\_\_  
Secretary of State

By \_\_\_\_\_  
Asst. Secretary of State